

# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

FILE:

B-219994

DATE: December 18<sup>th</sup>, 1985

MATTER OF: Rotair Industries, Inc.

## DIGEST:

1. Agency's refusal to approve protester as a source for critical helicopter spare parts is not unreasonable where the protester's offer of an alternate product is rejected as technically unacceptable because of failure to furnish all requested data and where the protester has not shown that the requirement for this data in the solicitation was unreasonable. The fact that another agency has previously approved the alternate product does not, by itself, indicate that the procuring agency's rejection of it was improper.
2. Failure of agency immediately to apprise protester of informational deficiencies in its offer is not unreasonable where procurement was conducted under small purchase procedures, since these procedures do not contemplate the type of discussions and the opportunity to submit revised proposals that otherwise may occur in a negotiated procurement.
3. When a nonapproved source for helicopter spare parts has an opportunity to submit a quote and its offer is the subject of a complete technical evaluation, rejection does not constitute de facto debarment.

Rotair Industries, Inc., protests the award of a contract to Sikorsky Aircraft, a division of United Technologies Corporation, under request for quotations (RFQ) No. DLA500-85-Q-0959, issued by the Defense Industrial Supply Center (DISC), Philadelphia, Pennsylvania, a field activity of the Defense Logistics Agency (DLA). Rotair contends that the contracting agency improperly rejected its offer for helicopter spare parts and that by delays in the source approval process, has effectively debarred Rotair.

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We deny the protest.

The solicitation, issued on December 26, 1984, under the small purchase procedures, Federal Acquisition Regulation (FAR) 48 C.F.R. subpart 13.1 (1984), sought quotations for various quantities of plain, rod end bearings, Sikorsky Aircraft part number 70103-11007-042. Offerors were permitted to submit quotes for alternate products as defined in a standard clause, entitled "Products Offered," incorporated by reference into the solicitation. The clause requires offerors of such products to submit all drawings, specifications, or other data necessary to enable the government to determine whether the alternate product is either identical to or physically, mechanically, electronically, and functionally interchangeable with the product specified. The clause warns offerors that the failure to furnish all necessary information may preclude consideration of the offer, stating that the alternate product will be considered technically unacceptable if acceptability cannot be determined before award.

Rotair, which had requested a copy of the RFQ following a Commerce Business Daily synopsis on February 4, 1985, submitted a quote for the primary quantity of 60 bearings and forwarded copies of drawings to the contracting activity. Subsequently, on March 7, Rotair tendered a quotation for both the primary and alternate quantities (90 and 120) of bearings. This quotation, submitted on standard form 18, specified that Rotair was offering an alternate product. At the same time, pursuant to a request from the agency, Rotair submitted another drawing and referred the contracting activity to supporting Sikorsky standards and specifications that it had previously submitted to DISC's Directorate of Technical Operations, apparently in connection with an ongoing attempt to become an approved source; this attempt preceded the protested procurement.

Between April and July 1985 DISC conducted a technical evaluation and ultimately concluded that Rotair's offer was not acceptable for six different reasons. Consequently, the contracting officer rejected Rotair's offer, notified Rotair of this decision by letter dated August 17, and awarded the contract to Sikorsky on August 12.

As noted above, Rotair had previously attempted to become an approved source for this particular bearing under agency procedures for approving products before the issuance of a solicitation. Under these, all user military services

must approve a source before the agency can acquire items from it. Although Rotair submitted a data package to DISC's competition advocate in October 1984, it was not until February 1985 that DLA forwarded Rotair's data to the user services. Subsequently, both the Air Force, noting that certain additional data was needed to identify the rod end material, and the Navy approved Rotair's bearing. The Army, however, requested additional information and, the record indicates, has yet to issue a final determination regarding the acceptability of Rotair's product.

Rotair first argues that DISC should not have rejected its offer, since the Air Force and the Navy already have approved it as a source for the product that DISC found technically unacceptable. Moreover, Rotair states it has successfully manufactured helicopter parts for 25 years, and has routinely delivered these parts to all three military services.

In our opinion, the agency's decision was not unreasonable. Procuring activities are responsible for evaluating the data supplied by offerors and ascertaining if it provides sufficient information to determine the acceptability of the product in question. Rowe Industries, B-215881, Oct. 24, 1984, 84-2 CPD ¶ 464. We will not disturb the agency's technical determination unless it is shown to be unreasonable, which the protester must affirmatively prove. Panasonic Industrial Co., B-207852.2, Apr. 12, 1983, 83-1 CPD ¶ 379.

Here, the RFQ warned Rotair of the necessity to furnish all pertinent information regarding its product to facilitate its technical evaluation. In addition, the agency requested supplemental data after receiving Rotair's initial quotation in February. Despite these requests, the record discloses that Rotair's data package was incomplete. Specifically, the record indicates that Rotair failed to provide (1) sufficient supporting specifications for Sikorsky's product (2) information as to the origin of drawings on test of materials (the technical evaluation noted that if these were Rotair's, they were not provided, and if they were Sikorsky's, they were source controlled); (3) the latest OEM (original equipment manufacturer's) drawing for the assembled item; (4) documentation of tracability/configuration audit capability; (5) proof of production of the same or technically similar items; and (5) a statement on the existence and availability of critical processes and quality assurance procedures.

Rotair alludes to the Air Force's and Navy's approval of it as a source for the bearings as evidence that DISC's insistence on additional information was unreasonable. In this regard, the Air Force, while giving its approval, stated that additional data was required to identify the rod end material, and the Army has not yet completed its evaluation. Other than referring to the approval by the Air Force and Navy, Rotair does not specifically address DLA's contention that without additional data it could not determine whether Rotair's product was functionally equivalent to Sikorsky's. Since the bearing being procured is part of a helicopter rotor blade, and is considered critical, we cannot find that DISC's rejection of Rotair's proposal as technically unacceptable--because of lack of complete documentation--was unreasonable. See Pacific Sky Supply, Inc., B-219749, Oct. 11, 1985, 85-2 CPD ¶ 406.

Rotair next contends that the procedures used to evaluate its product were deficient. Specifically, Rotair refers to DISC's allegedly improper failure to apprise it at the earliest time of informational deficiencies, as outlined in an internal review memorandum dated April 22, 1985. Had it been informed of and given an opportunity to correct these deficiencies, Rotair alleges it could have provided the additional data required before DISC awarded the contract to Sikorsky in August. Rotair also refers to what it alleges is an inordinate amount of time--more than 200 days--between submission of its technical package to DISC's competition advocate in October 1984 and rejection of its quote for the protested procurement the following August. Rotair alleges that had this evaluation been conducted in an efficient manner, its product could have been approved before the subject RFQ was issued or, at the latest, before award. These two failures, Rotair concludes, violated statutory and regulatory requirements for full and open competition and acquisition planning. Moreover, Rotair contends, the agency's actions have resulted in its de facto debarment from this procurement.

Contracting agencies have considerable discretion in the establishment of testing procedures. In the absence of a showing that the agency's actions lack a reasonable basis, we will not substitute our judgment. JGB Enterprises, Inc., B-218430, Apr. 26, 1985, 85-1 CPD ¶ 479. In this case, we believe DISC acted reasonably in evaluating all offers submitted in response to the RFQ, giving each offer due consideration and not making an award until the technical review of submitted data had been completed. The alleged failure immediately to apprise Rotair of the informational deficiencies in its offer does not change this conclusion. As noted above, the solicitation was issued under the small purchase procedures, which do not contemplate the type of

discussions or the opportunity to submit revised proposals that occur in a full scale negotiated procurement. In this context, we do not believe that the agency acted improperly by rejecting Rotair's offer without affording it an opportunity to submit additional information. See M.F. Services, Inc., B-210954, Jan. 20, 1984, 84-1 CPD ¶ 87.

Nor does the considerable time consumed by the prequalification testing of Rotair's product provide a basis on which to sustain the protest. The agency points out that the source approval program conducted by its competition advocate is separate from, and subject to different requirements than, technical evaluation for a particular procurement. Moreover, it does not appear that Rotair even advised the contracting officer of its ongoing attempt to become an approved source except to refer to a binder of materials submitted to a different agency official. In any event, Rotair was not prejudiced by the agency's failure to complete the prequalification, since it was able to submit a quote and have its alternate product evaluated for this particular procurement. For the same reason, i.e., that Rotair was able to compete, we cannot conclude that the firm was effectively debarred from this procurement.

Finally, we note that the specific requirements for full and open competition cited by Rotair, 10 U.S.C.A. § 2304 (West Supp. 1985) and FAR § 6.101, Federal Acquisition Circular, No. 84-5, April 1, 1985, became effective after the issuance of this RFQ. Additionally, these provisions are expressly inapplicable to contracts, such as this one, awarded under small purchase procedures, where the standard is maximum practicable competition. See 10 U.S.C.A. § 2304(q).

We deny the protest.

*for Seymour E. Evans*  
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